

Consular Services

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Introduction

On 26 October 1997 Italy joined the Schengen system at the end of a gradual process of adjusting to the common visa regime provided by the Convention Implementing the Schengen Agreement.

While strengthening the common external border, there was a parallel and gradual removal of internal border controls, giving total freedom of movement within all the territories of the Schengen agreement signatory states: the establishment of what has become known as the Schengen Area.

Relevant legislation

The Ministry of Foreign Affairs, which has the statutory powers over the admission of aliens, issued the "Inter-Departmental Decree on visas on 12 July 2000, pursuant to section 5(c)(3) of Presidential Decree 394/1999 (as amended by D.P.R. 334/2004, published in the Official Gazette No 33 of 10.02.2005), completing the national corpus of legislative sources governing this subject matter, comprising:

- Law 189 of 30 July 2002, enacting "Amendments to immigration and asylum law"
- Consolidated Act enacting "Provisions governing immigration and alien status" - Legislative Decree 286 of 25.7.1998.
- Regulation implementing the Consolidated Act - Presidential Decree 394 of 31.8.1999
- D.P.R. 18.10.2004 no. 354, regulation amending and supplementing D.P.R. 31.08.1999 no. 394, in matters of immigration;
- Ministry of Home Affairs Directive of 1.3.2000 "Defining the means of subsistence for the admission and stay of aliens on Italian territory" (Official Gazette No 64 of 17.3.2000).

The sources of law governing the Schengen system are:

- The Schengen Agreement of 14.6.1985 between Belgium, France, Germany, Luxembourg and The Netherlands;
- The Convention Implementing the Schengen Agreement of 19.6.1990;
- The Italian Accession Agreements, done in Paris on 27.11.1990;
- Ratification and Implementation Act, Law 388 of 30.9.1993 (Official Gazette No 232 of 2.10.1993);
- Common Consular Instruction (CCI) adopted by the Schengen Executive Committee in Paris on 14.12.1993 and amended most recently on 27.09.05.
- Regolamento del Consiglio n. 539 del 15.3.2001 che determina la lista degli Stati i cui cittadini sono soggetti ad obbligo di visto;
- Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders. Council Regulation (EC) 1091/2001 of 28 May 2001 on freedom of movement with a long-stay visa.

The "Schengen Area" comprises the national territories of the countries that already apply the Convention: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, The Netherlands, Portugal, Spain, Sweden, Iceland and Norway, Latvia, Lithuania, Estonia, Czech Republic, Hungary, Malta, Poland, Slovak Republic, Slovenia and Switzerland.

The external border is the perimeter of the Schengen area which aliens may enter using the border crossing points: and means the Schengen Area Parties' land and sea borders and their airports and sea ports, provided that they are not internal borders.

Internal borders are the common land borders of the Schengen Area Parties, their airports for internal flights and their sea ports for regular - passenger - connections exclusively from or to other ports within the territories of the Schengen Area Parties.

Non-aliens are nationals of all the countries of the European Union and the European Economic Area: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Lichtenstein, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom Cyprus, Czech Republic, Bulgaria, Estonia, Croatia, Latvia, Lithuania, Malta, Hungary, Poland, Romania, Slovakia and Slovenia.

Aliens are nationals of any other State.

Entry of aliens into Italy

Admission to Italian territory through the external borders of the Schengen Area is only permitted to aliens who:

- a. seek entry through a border crossing point;
- b. are in possession of a valid passport or equivalent recognised travel document permitting them to cross the border;
- c. are in possession of documents substantiating the purpose and the conditions of the planned visit and have sufficient means of support, both for the period of the planned visit and to return to their country of origin (or to travel in transit to a Third State). An alien who already holds a residence permit issued by one of the Contracting Parties is exempted from this requirement.
- d. are in possession of a valid entry or transit visa, if required;
- e. have not been prohibited to enter through an alert in the Schengen Information System;
- f. are not considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties, under Italian law or the law of another Schengen State.

If any one of the aforementioned conditions are not met, the alien may be denied entry by the border authorities even if in possession of a valid entry or transit visa.

Passports and equivalent travel documents

To enter, stay in or transit through the whole of the Schengen area, aliens must be in possession of a passport or another travel document recognized as valid for the purposes of crossing the borders by all the Schengen States. To enter, stay in or transit through Italy, aliens must be in possession of a passport or another travel document recognised as valid by the Italian government. Travel documents shall be considered valid if, "in addition to meeting the conditions provided I articles 13 and 14 of the Convention implementing the Schengen Agreement, they duly certified the identity of the holder and the holder's nationality or citizenship". In the event that a visa is required, article 13 of the Convention provides that:

- No visa shall be apposed on a travel document that has expired.
- The period of validity of a travel document must be greater than that of the visa. The expiry date of the validity must be more than three months from the date of the visa. A foreign national holding a travel document which is not recognised by Italy may be issued with a laissez-passer by an Italian diplomatic mission or consulate which is only valid for Italy, and will not permit transit through the territory of the other Schengen States.

The following travel documents are considered valid to cross the borders and for the issue of a visa:

- Passport. This is the internationally recognized document entitling the holder to travel from one country to another. It may be:
- diplomatic passport, a service (or official or special or public affairs) passport, or an ordinary passport;
- a personal (which may also include the spouse and/or children) or a group passport (for groups of not less than five and not more than 50 people, all having the same nationality, and all travelling together and for the same purpose, normally as tourists, all entering, staying in and leaving together the Schengen Area; each member of the group must also hold a personal identity document, complete with photograph).

Other travel documents equivalent to a passport are:

- **a travel document for stateless persons**, governed by the "Convention Relating to the Status of Stateless Persons" signed in New York on 28.9.1954. Stateless persons must obtain a visa for Italy unless they already hold a residence permit to stay in one of the Schengen countries;
- **a travel document for refugees**, governed by the "Convention Relating to the Status of Refugees", signed in Geneva on 28.7.1951. Refugees must obtain a visa unless they already hold a residence permit to stay in one of the Schengen countries or a travel document issued by one of the signatory States of the Strasbourg Agreement of 20.4.1959);
- **a travel document for aliens** who are prevented from obtaining a valid travel document from the authorities of the country of which they are nationals: these

documents are subject to the same visa requirements which apply to nationals of their home country;

- **the Seafarer's identity document** issued to seafarers to exercise their profession. It is recognised as a valid travel document to enter the Schengen Area only in relation to the Seafarer's professional requirements, and not for any other reason. Italy recognises the Seafarer's identity documents issued by EU countries and the EEA countries signatories to the International Labour Convention No 108 (Geneva, 13.5.1958) and by those with which Italy has concluded specific bilateral agreements;
- **the general Declaration**, issued to pilots and crew of Civil Aviation companies for flight duty, in conformity with the "Convention on Civil Aviation" signed in Montreal on 7.12.1944. This document is exempt from visa requirements in the signatory countries of the Chicago Convention of 25.3.1949 or under reciprocity agreements, provided that the entry is work-related;
- **a United Nations laissez-passer**, issued by the United Nations Secretariat to United Nations personnel and that of its related agencies, in conformity with the "Convention on the Privileges and Immunities of the Specialized Agencies" adopted by the UN General Assembly in New York on 21.11.1947. This document is subject to the visa provisions in force in the country of which the person in question is a citizen;
- **an individual or collective movement order issued by NATO Headquarters to the military or civilian personnel and their dependents** (spouse and children) who are posted to serve in a NATO member country, in conformity with the "Agreement between the Parties to the North Atlantic Treaty" signed in London on 19.6.51 and ratified by Italy with Law no. 1335 of 30.11.1955. The members of a NATO force (but not the accompanying civilians, or dependent family members) are exempt from the visa requirement;
- **an identity card in the case of nationals of EU member states** which is valid for foreign travel for work purposes. It is exempt from the visa requirement;
- **an identity card** (and other documents) identifying citizens of the signatory States of the "European Agreement on the Abolition of Passports" (signed in Paris on 13.12.1957), valid for the purposes of tourism in any one of the States for a period of not more than three months. It is exempt from the visa requirement;
- **a list of participants in school trips within the EU**, issued to students from third countries resident in an EU state in conformity with the "Joint Action" of the Council adopted by the European Union on 30.11.1994. This document is exempt from visa requirements.
- **a pass**, replacing a passport and used, issued to a person who does not hold a regular travel document authorising the holder to travel in all the Schengen States, or only within Italy. This document is subject to the visa provisions in force in the country of which the person in question is a citizen;
- **clearance papers or border permits** granted to citizens resident in border areas, for transit across the border itself and circulation in the corresponding areas of neighbouring States. This document is exempt from visa requirements.

Availability of means of subsistence

An alien wishing to enter Italian territory or the Schengen Area must have sufficient financial resources available to guarantee maintenance throughout the planned visit. The availability of means of subsistence is therefore an essential condition for the entry of an alien into the Schengen Area (Common Consular Instruction).

On 1.3.2000 the Ministry of Home Affairs, (pursuant to section 4(c)(3) of the Consolidated Act no. 286 of 25 July 1998), issued an Order, "Directive defining means of subsistence for the admission and stay of aliens within Italian territory" (published in the Official Gazette No. 64 on 17.3.2000).

This Order requires foreign nationals to demonstrate that they possess means of subsistence by showing liquid cash, bank guarantees, insurance policy guarantees or equivalent credit instruments, vouchers for prepaid services or other documents demonstrating access to sources of income in Italy. Except where otherwise provided by the instruments mentioned above, the alien must indicate the existence of appropriate accommodation within Italy and the availability of funds for repatriation, which may also take the form of a prepaid return travel ticket. The need to provide evidence of means of subsistence in the amount required is not only a fundamental condition for the issue of certain types of visas, but is also required at the moment the alien enters Italian territory. No visas can be issued in the event of failure to produce evidence of means of subsistence or, in the event that such evidence cannot be produced to the Border Police, the alien will be formally turned away from the border.

Table for establishing the means of subsistence required for admission to Italy.

(for business, medical treatment - and an accompanying person in this case - sports competition, or for religious reasons, for transit, transport or tourism)

Length of stay	One member	Two or more members
1-5 days: overall fixed amount	€ 269,60	€ 212,81
6-10 days: per persons/day	€ 44,93	€ 26,33
11-20 days: overall fixed amount	€ 51,64	€ 25,82
Daily amount per person	€ 36,67	€ 22,21
Above 20 days: fixed amount:	€ 206,58	€ 118,79
Daily amount per person	€ 27,89	€ 17,04

Individual and group visas. Issuing authority

A visa, which comprises a special "stamp" (or "sticker") affixed to the applicant's passport or other valid travel document, is an authorisation granted to an alien to enter the territory of the Italian Republic or that of the other Contracting Parties for transit or visit purposes. It is issued on the basis of criteria related to the preservation of good international relations and to the protection of national security and public order.

As a rule, aliens do not have a "right" to be granted a visa, but at most a "legitimate interest". Art.4, paragraph 2 of Consolidated Text 286/1998, with latest legislative amendments states that "visa denials do not have to be justified, except when regarding visa applications presented in pursuance of articles 22, 24, 26-29, 36 and 39 of the same Consolidated Text (visas for work, joining family members, medical treatment and study). In the case of denial the person concerned must be notified in a language understandable to him/her or, in the absence of the same, in English, French, Spanish or Arabic. To dispute a denial a claim must be filed with the TAR del Lazio within 60 days of receiving notification. In the case of denial of visa for joining or accompanying family members only, eventual claims can be filed with the regular authorised Court.

Authority to issue visas for entry to the Italian Republic is vested in the Italian Ministry of Foreign Affairs and its network of accredited diplomatic and consular officers, which are responsible for ascertaining that applicants are in possession of the requisites entitling them to obtain a visa, which is issued by the diplomatic or consular mission with territorial jurisdiction over the place of residence of the alien applicant. Where it is not possible to identify the main destination, when there are several stages in the journey, the visa shall be issued by the diplomatic mission of the Schengen State of entry.

The authority for the issue of the Uniform Schengen Visa (long stay) is the diplomatic mission of the Schengen State present locally which is intended to be the sole or main destination.

The authority for the issue of a National Visa (long stay) is the diplomatic mission of the Schengen State present locally which is intended to be the long-stay destination.

If the Contracting Party competent to grant the visa does not have a Mission in the alien's country of residence the Uniform Schengen Visa can be issued by the Mission of another Contracting Party on its behalf.

National Visas May not, however, be issued by delegated authority.

The possession of a visa does not give an alien automatic right of entry to Italy, because the border authorities may always refuse entry to an alien who is not in possession of adequate means of subsistence or is unable to provide full details regarding the circumstances of the stay in Italy, or for reasons of security or public policy.

N.B.: No visas (and no extension to previously issued visas) may be granted to aliens who are already on Italian territory.

Only in exceptional and urgent cases may the border authorities issue a transit or short stay visa.

"Border permits" are issued on entry to Italy by the border authorities on the basis of an internationally accepted procedure to enable aliens for whom a visas is required, and are not in possession of one, and to stay overnight or a short stay in areas adjacent to certain airports ("city visit permit" for a maximum of 48 hours) or to visit, during the day time only, the urban areas in the vicinity of ports, including places of major tourist interest ("permit for sailors and cruise passengers").

Under the Convention, visas issued by our diplomatic missions and consulates permit access to Italy and to the other Schengen States for the purposes of transit or short visits (up to 90 days) and in this case are known as "Schengen Visas" (USV). Similarly, a USV issued by diplomatic missions and consulates of other Schengen States permit access to Italy.

The long stay entry visa (more than 90 days) only gives access to the state that issues the visa, and the possibility of transit through other Schengen countries to enter that country, in which case it is known as are "National Visa" (NV).

Stay

All aliens who enter Italy legally, including those who are not required to hold a visa, must comply with the rules governing the stay of aliens in Italy, and are required to report their presence on Italian territory to the local Central Police Station ('Questura') of the province in which they are staying within 8 working days from the date of entry, and apply for a residence permit ('permesso di soggiorno') pursuant to article 5 of Law 286/1998. Aliens requesting this residence permit are required to be fingerprinted.

It is this residence permit ('permesso di soggiorno') alone, which is issued for the reason and for the period indicated on the visa, which authorises an alien to stay in Italy.

Under Schengen rules, the residence permit issued by the Questura police authorities (or the diplomatic or service identity card issued by the Ministry of Foreign Affairs) to holders of a long-stay visa, permits aliens, unless express limitations are imposed, to enter and leave the Schengen area and travel freely for a period of not more than 90 days in any 6-month period within territories of the other Contracting States, provided that they hold a currently valid national passport or equivalent travel document. Nevertheless, all aliens are required to report their presence to the police authorities in the territory of any other Schengen states within 3 working days of entry

List of countries whose citizens are subject to the visa obligation

In view of the need to gradually harmonize the different national visa policies, the European authorities have adopted various measures including the Council Regulation 539 of 15.3.2001 containing the list of countries whose nationals are subject to the visa requirement.

Nationals bearing ordinary passports of the following countries/regional configurations are subject to visa obligations:

Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central Africa, Chad, China, Colombia, Comoro Islands, Congo, Congo (Democratic Republic), Côte d'Ivoire, Cuba, Djibouti, Dominica, Dominican (Republic), East Timor, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Georgia, Ghana, Granada, Guinea, Guinea Bissau, Guyana, Haiti, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Kiribati, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Macedonia (the Former Yugoslav Republic of), Madagascar, Malawi, Maldives, Mali, Marshall Islands, Mauritania, Mauritius, Micronesia, Moldova, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Niger, Nigeria, North Korea, Northern Marianas, Oman, Pakistan, Palau, Palestinian National Authority, Papua-New Guinea, Peru, the Philippines, Qatar, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Tajikistan, Taiwan, (non-recognized territorial entity), Tanzania, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, Western Samoa, Yemen, Federal Republic of Yugoslavia (Serbia-Montenegro), Zambia, Zimbabwe.

Nationals of the following countries do not require a visa for visits up to a maximum of 90 days, for tourism, on missions, business, invitations ought to take part in sports events: Andorra, Argentina, Australia, Brazil, Brunei, Canada, Chile, Costa Rica, El Salvador, Guatemala, Honduras, Hong Kong, Israel, Japan, Malaysia, Macao, Mexico, Monaco, New Zealand, Nicaragua, Panama, Paraguay, South Korea, Singapore, United States, Uruguay, Venezuela.

Nationals of San Marino, the Holy See and Switzerland do not require a visas in any case. The citizens of the following countries are required to obtain visas for transit through Italian airports:

Afghanistan***, Bangladesh***, Democratic Republic of the Congo***, Colombia**,

Eritrea*, Ethiopia***, Ghana***, Iran***, Iraq***, Nigeria***, Pakistan***, Senegal**, Somalia*** and Sri Lanka***.

(*) exempt from obligation if the passenger holds a valid visa or residence permit from one of the EU Member States or one of the Parties to the European Economic Area Agreement of 2 May 1992, from Canada, Switzerland or the United States.

(**) exempt from obligation if the passenger holds a valid visa or residence permit from one of the Member States of the European Economic Area, Canada, or the United States of America.

(***) are exempt from the obligation to obtain an Airport Transit Visa if in possession of a "resident permit" issued by one of the following countries: IRELAND, LIECHTENSTEIN, UNITED KINGDOM or of a "resident permit with unlimited right of return" issued by one of the following countries: ANDORRA, CANADA, JAPAN, PRINCIPATE OF MONACO, SAN MARINO, SWITZERLAND, UNITED STATES;
For long stays (above 90 days) for whatever purpose all aliens are required to hold a visa, even if they are nationals of countries which do not require transit or short-stay visas.

Visa types and validity

Visas may be individual - issued to an individual applicant and apposed to an individual passport - or group visas - issued to a group of aliens, all having the same nationality of the passport-issuing country, and provided that the document is expressly and formally recognised by Italy.

Group visas cannot exceed 30 days.

Visas are divided into three main categories:

1. Uniform Schengen Visas (USV): valid for all the Contracting Parties' territories; they may be

- airport transit visas (type A),
- transit visas (type B),
- short-stay or travel visas (type C), valid for up to 90 days, for single or multiple entry.

Exceptionally, the Schengen regulation enables important or well-known persons who frequently require a visa and who can provide the necessary guarantees, to be issued with C-type visas which permit a visit of up to 90 days in any half-year and are valid for one (C1), two (C2), three (C3) or five years (C5).

2. Limited Territorial Validity visas (LTV): these are only valid for the Schengen State whose representative issued the visa (or in particular cases for other Schengen states where specifically named) without any possibility of access to or transit through the territory of any other Schengen States. They are issued solely for humanitarian reasons, or in the national interest, or under international obligations as an exception to the common USV system. An alien may not directly apply for these visas, which are issued in a few specific cases by the diplomatic or consular representative when it deems it appropriate to issue the visa for the reasons as stated even though not all the conditions are met for the issue of a Uniform Schengen Visa, or when the applicant does not hold a validly recognised travel document, in particular emergencies or in case of need.

3. Long stay or "national" (NV) to Visas, which are only valid for visits that are longer than 90 days (type D), with one or more entries, in the territory of the Schengen State whose diplomatic representative issued the visa, and to transit through the territory of other Schengen States for a period of not more than five days.

4. Long stay or "national" visas which also have the value of short-term visas.

Visa applications must be in writing, giving all the details required on the special visa application form which must be signed by the applicant, and accompanied by one passport-size photograph. As a rule, aliens applying for visas must visit the diplomatic or consular offices in person to be interviewed on the reasons and circumstances of the visit. Applications must be accompanied by a valid travel document on which it is materially possible to appose the visa, together with any supporting documents that may be required. This documentation, depending on the type of visa requested or which the Mission deems it can issue, must necessarily state:

- the purpose of the visit
- means of transport and for the return journey
- means of support during the journey and stay
- accommodation arrangements.

Once the visa application is accepted on the basis of the documentation produced by the applicant and the results of the interview, which is normally conducted directly and personally, the Diplomatic Mission carries out the statutory preliminary security checks. This involves line accessing the SIS (Schengen Information System) through the "world visa network", to consult the list of aliens to be refused admission into the Schengen area. The deadlines for issuing an entry visa are set out in section 5 (8) of Presidential Decree 394 of 31.8.1999, as amended by D.P.R. 334/2004, which states that the diplomatic/consular mission, "after ascertaining that the application can be entertained, and after conducting the necessary investigations in relation to the visa, including the preventive security checks, shall issue the visa within 90 days of the date of application" (30 days for paid employment, 120 days for self-employment).

Pursuant to article 6(2) and (3) of Ministerial Decree 171 of 3 March 1997, these deadlines may be exceeded whenever it is necessary to carry out investigations or acquire information, documents and opinions from foreign authorities.

Any cases of forged documents produced by foreign nationals for the purposes of obtaining an entry visa shall always be reported to the Italian judicial authorities by the diplomatic or consular mission (article 331 of the code of criminal procedure). This applies both to the forgery of Italian documents and documents of foreign origin that are in any way used in support of a visa application.

In the event that the diplomatic/consular authorities are acquainted with any fact, situation or condition that would have prevented the grant of an entry visa that has already been granted, they must issue a formal REVOCATION measure.

The 21 types of entry visa

The Interdepartmental Degree of 12.7.2000 introduced 21 different types of entry visa, as well as the requirements and the conditions for granting them: adoption, business, medical treatment, diplomatic, accompanying dependent, sports competitions, invitation, self-employment, made employment, mission, religious grounds, re-entry, choice of residence, family reunion, study, airport transit, transit, transport, tourism, working holidays, job-seeking (abolished).

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